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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 RANDOLPH CYPRIAN,

12 Plaintiff,

13 v.

14 DANIEL WHITE et al.,

15 Defendants.

CASE NO. 3:19-CV-05047-RBL-JRC

ORDER DENYING MOTION TO
APPOINT COUNSEL AND ORDER
GRANTING EXTENSION

16 The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States
17 Magistrate Judge J. Richard Creatura. Before the Court is plaintiff's motion to appoint counsel
18 and motion for an extension to file a second amended complaint. Dkt. 9.

19 Although indigent defendants in criminal cases are entitled to appointed counsel, there is
20 no constitutional right to appointed counsel in a § 1983 civil action. *Storseth v. Spellman*, 654
21 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564,
22 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is discretionary, not
23 mandatory”). However, in “exceptional circumstances,” a district court may appoint counsel for
24 indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand*

1 *v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th
2 Cir. 1998). To decide whether exceptional circumstances exist, the Court must evaluate both “the
3 likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims *pro*
4 *se* in light of the complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328,
5 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff
6 must plead facts showing he has an insufficient grasp of his case or the legal issues involved and
7 an inadequate ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp.*
8 *of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

9 In plaintiff’s motion to appoint counsel, he states generally that he has an insufficient
10 grasp of the case or the legal issues involved, and that he is unable to articulate the factual basis
11 of his claim. Dkt. 9. However, plaintiff fails to show exceptional circumstances necessary to
12 warrant appointment of counsel. At this time, plaintiff has not shown, nor does the Court find,
13 that this case involves complex facts or law. Rather, he has demonstrated an ability to articulate
14 the factual basis of his claims in a fashion understandable to the Court. Further, it is still early in
15 the case. Plaintiff has not yet filed a second amended complaint and defendants have not yet
16 been served. *See* Dkt. Because it is so early in the case, the Court cannot yet determine plaintiff’s
17 likelihood of success on the merits. Therefore, the Court finds that plaintiff has failed to show
18 that the appointment of counsel is appropriate at this time. Accordingly, plaintiff’s motion to
19 appoint counsel (Dkt. 9) is denied without prejudice.

1 Plaintiff's motion also states that without counsel he will need an additional thirty days to
2 file his second amended complaint. Dkt. 9. Plaintiff shows good cause for the extension. The
3 motion for extension is granted and plaintiff's amended complaint will be due on or before June
4 15, 2019.

5 Dated this 2nd day of May, 2019.

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8 J. Richard Creatura
9 United States Magistrate Judge
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